UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1999/1219
6 December 1999

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE SITUATION CONCERNING WESTERN SAHARA

I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolution 1263 (1999) of 13 September 1999, by which the Council extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 14 December 1999. The Council requested me to report to it every 45 days on significant developments in the implementation of the United Nations Settlement Plan for Western Sahara (S/21360 and S/22464 and Corr.1), of the agreements reached between the parties, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO), under the auspices of my Personal Envoy, James A. Baker III (S/1997/742, annexes I-III), and of the United Nations package of measures (S/1999/483/Add.1). The present report covers developments since my previous report to the Security Council, dated 28 October 1999 (S/1999/1098).

II. DEVELOPMENTS DURING THE REPORTING PERIOD

2. My Special Representative, William Eagleton, pursued consultations with the parties in the region with a view to securing the continuation of the appeals process and the simultaneous identification of the remaining applicants from tribal groupings H41, H61 and J51/52, as well as of the preparatory work for the repatriation of refugees and other Saharans residing outside the Territory who are eligible to vote, together with their immediate families. To that end, my Special Representative met with President Maaouya Ould Sid'Ahmed Taya, Foreign Minister Ahmed Ould Sid'Ahmed and Interior Minister Dah Ould Abdel Jelil of Mauritania at Nouakchott on 14 November. He met with Frente POLISARIO Secretary-General Mohamed Abdelaziz and the Coordinator with MINURSO, Emhamed Khaddad, at Tindouf on 23 November. He met with Algerian Prime Minister Smail Hamdani and Foreign Minister Ahmed Attaf at Algiers on 24 November. In Rabat on 3, 8, 19 and 25 November, he met with Moroccan Prime Minister Abderrahmane Youssoufi, the Minister for Foreign Affairs, Mohamed Benaissa, the new Minister of the Interior, Ahmed El Midaoui, who was appointed on 9 November to replace Driss Basri, as well as the new Secretary of State for the Interior, Fouad El Himma. On 26 November, my Special Representative was received by

99-37265 (E) 061299

/...

King Mohammed VI. The views expressed by Mr. Eagleton's interlocutors may be summarized as follows.

3. Pledging his full support for the Settlement Plan, the President of Mauritania expressed his concern about the prospect of substantial delays in its implementation, in the light of the large number of appeals, and called for an early solution to the question of Western Sahara.

4. The Secretary-General of the Frente POLISARIO pledged full support for the Settlement Plan but expressed his concern over the delays to the referendum, caused in particular by the large number of appeals from the first provisional voter list issued on 15 July 1999 and the prospects of possible additional appeals from the second list, which is expected to be released in January 2000. He maintained that a large number of appeals could be eliminated by adhering strictly to the provisions concerning their admissibility (see S/1999/483/Add.1, pp. 13-14), thereby significantly reducing the time needed to complete the appeals process. He emphasized the hardship faced by those who had spent years in the refugee camps and who suffered with every further delay in the implementation of the Plan.

5. The Prime Minister and the Foreign Minister of Algeria emphasized the long-standing support of their Government for the Settlement Plan and the importance of maintaining progress in its implementation. They expressed concern over the appeals problem and also argued that a strict interpretation of admissibility could reduce the time needed for completing the appeals phase.

6. The Moroccan authorities reiterated their support for the efforts of the United Nations under the Settlement Plan. With regard to the problems faced by MINURSO as a result of the large number of appeals, the Moroccan authorities, invoking Security Council resolution 1263 (1999), in which the Council had reaffirmed the rights of the applicants, reiterated that every prospective voter had the right to appeal and that admissibility requirements could be fulfilled by the naming of witnesses who would provide new information to support the appellants' inclusion in the voter list. My Special Representative is continuing his discussions with the Moroccan authorities on this issue as well as on their views concerning the prospects of a new round of appeals after the issuance of the second provisional voter list.

7. Meanwhile, my Deputy Special Representative, Robin Kinloch, has requested that his contract with MINURSO, which expires on 31 December 1999, not be renewed. I have accepted his request with much regret. I should like to pay tribute to Mr. Kinloch for his outstanding service with MINURSO as Chairman of the Identification Commission, Acting Special Representative and Deputy Special Representative and wish him well in his future endeavours.

A. Identification and appeals

8. Identification operations for individual applicants from tribal groupings H41, H61 and J51/52, which started on 15 June 1999, are scheduled to be completed by 31 December 1999. Since 15 June 1999, the Identification Commission has identified 42,774 applicants from the above three tribal

groupings, of whom 8,371 are located in the Territory, 667 in the Tindouf area of Algeria, 33,002 in Morocco and 734 in Mauritania. On 30 November 1999, the overall total of those identified since 1994 reached 190,023. To date, a relatively small percentage of applicants from the above-mentioned three tribal groupings has been found eligible by the Identification Commission. If all those who may be found ineligible were to file an appeal, the total number of appeals to be processed could almost double.

9. Meanwhile, the following issues have emerged from MINURSO's preliminary analysis of the 79,000 appeals filed by applicants following the publication of the first part of the provisional voter list on 15 July 1999 (which contains the names of eligible applicants interviewed by MINURSO during the first phases of identification conducted in 1994-1995 and in 1997-1998). Appeals were filed by almost all the applicants who, on the basis of their interviews, did not meet the criteria for voter eligibility and were therefore excluded from that list. The great majority of the appeals filed indicate the names of witnesses who purportedly will provide, at the appeals hearings, new facts in support of the appellants' claim for inclusion. The Identification Commission is constrained in the handling of the appeals by the parties' radically opposed interpretations of articles 9, paragraph 1 (iii) and 12 of the appeals procedures regarding grounds for appeals and admissibility of applications (ibid., pp. 12-14), as reflected in paragraphs 4 and 6 above. In his consultations, my Special Representative has received no indication that either party would change its view on this issue.

10. The second part of the provisional list (that is, of eligible applicants from tribal groupings H41, H61 and J51/52), which is expected to be issued in mid-January 2000, could well evoke an equally high number of appeals. In any event, the hearings of such numerous appeals would impose serious logistical and organizational strains on the Identification Commission and would require additional resources.

11. In my report to the Security Council dated 8 September 1999 (S/1999/954, para. 21), I already indicated that more time and the deployment of a larger staff than originally envisaged would be required to complete the appeals process. In view of the uncertainties prevailing with regard to the conduct of the appeals process, it is not yet possible to provide a detailed assessment of the staffing requirements. In the meantime, with the currently authorized staff resources, it will be possible to complete the identification operations in order to publish the second provisional voter list, and to receive appeals for a six-week period as required, while continuing the internal processing of appeals already received.

B. Prisoners of war

12. On 23 November, my Special Representative was presented by the Secretary-General of the Frente POLISARIO with a list of 191 Moroccan prisoners of war (POWs) who had been freed on that day on humanitarian grounds, from among those taken prisoner during the 1975-1989 Western Sahara armed conflict. The list of POWs has been forwarded to the Government of Morocco and to the International Committee of the Red Cross (ICRC), which is available for

organizing their repatriation. Five of the POWs with serious health problems were already repatriated on 23 November under the auspices of ICRC. I commend all those who were engaged in this humanitarian effort. In this context, ICRC has called for the early repatriation of all remaining POWs, especially those who meet the humanitarian criteria of ICRC on the basis of age, health or length of detention.

C. Military aspects

13. On 28 October, I decided to appoint Brigadier General Claude Buze (Belgium) to the post of Force Commander of MINURSO. The new Force Commander assumed his functions in the mission area on 16 November. Under his command, the military component of MINURSO continued to monitor the ceasefire between the Royal Moroccan Army and the Frente POLISARIO forces, which came into effect on 6 September 1991. As at 2 December 1999, the strength of the military component of MINURSO stood at 230 all ranks (see annex). The MINURSO area of responsibility remained calm and there have been no indications that either side intends to resume hostilities.

14. Progress continued in the implementation of the military agreements between MINURSO and the two parties on the marking and disposal of mines and unexploded ordnance and the related exchange of information. The Frente POLISARIO forces conducted nine operations for the disposal of explosives and ammunition and the Royal Moroccan Army conducted four such operations during the reporting period.

D. Civilian police aspects

15. During the reporting period, the civilian police component of MINURSO continued to assist the Identification Commission at the identification centres. The current strength of the component stands at 81 civilian police officers (see annex), under the command of Inspector General Om Prakash Rathor (India), who assumed his functions as the new Police Commissioner for MINURSO on 5 November.

E. Preparatory work for the repatriation of Saharan refugees

16. During the reporting period, the Office of the United Nations High Commissioner for Refugees (UNHCR), in close consultation and coordination with MINURSO, continued its preparatory work for the repatriation of Saharan refugees, as provided for under the United Nations Settlement Plan. A UNHCR delegation led by the Assistant High Commissioner visited the region from 20 to 24 November 1999 to ascertain UNHCR preparedness in the region.

17. In Algiers, the UNHCR mission had discussions with senior officials of the Ministry of Foreign Affairs, who reiterated their Government's assurances of full cooperation and support for the implementation of UNHCR activities in the country. Discussions on the subject were also held with the President of the Algerian Red Crescent and the representative of the Frente POLISARIO to Algeria.

18. During the meetings held with the refugees and with the Frente POLISARIO in the Tindouf area, including with Secretary-General Abdelaziz and the Coordinator with MINURSO, Emhamed Khaddad, security concerns of the refugees to repatriate to the Territory West of the berm were reiterated.

19. In the Western Sahara Territory, the UNHCR mission held a meeting with the Wali (Mayor) of Laayoune and the Moroccan Coordinator with MINURSO, Mohamed Loulichki. Meetings were also held with my Special Representative and other members of MINURSO on joint issues of coordination and cooperation, including the security concerns expressed by the refugees and the implementation of the UNHCR confidence-building plan.

20. In Rabat, the UNHCR mission met with the Minister of the Interior, the Minister of Development Cooperation at the Ministry of Foreign Affairs and the Permanent Representative of Morocco to the United Nations. The Government authorities confirmed their full cooperation and support to UNHCR. They recognized the need for undertaking confidence-building efforts with the refugees and in the Territory, to facilitate the repatriation process. The Moroccan authorities expressed their intention to reinstate the technical committee, as requested by UNHCR, to enable it to continue with its joint reconnaissance work in the Territory, including in Smara and Boujdour, and plan for the return of the refugees. The Moroccan Government also agreed to consider UNHCR's presence and freedom of movement in other locations in the Territory, such as Smara, Dakhla and Boujdour.

21. During the above-mentioned meetings, the parties reiterated their agreement in principle to the draft plan of action for the cross-border confidence-building measures, which UNHCR had submitted to the parties pursuant to Security Council resolution 1238 (1999) of 14 May 1999. While the refugees are eager to participate in these activities, they continue to express concerns for their safety and security during the implementation phase. Further consultations with the parties are required to agree upon implementation procedures.

22. The UNHCR pre-registration exercise to ascertain the willingness of the refugees to repatriate and to determine their final destination in the Territory continued in the Tindouf camps, with 22,842 refugees pre-registered at Camp Smara to date. The vast majority of refugees, fearing for their safety and security if they returned to the Territory West of the berm, continued to state that they wished to be repatriated only East of the berm, even though most of them had not originated from that area. The total number of refugees pre-registered in the camps since the beginning of the exercise in 1998 has reached 87,860. The entire pre-registration exercise, including electronic data collection, is expected to be completed by the end of December. At that stage, UNHCR would update its planning assumptions for the repatriation operation.

23. Regarding the draft refugee repatriation protocol, submitted to the parties pursuant to Security Council resolution 1204 (1998) of 30 October 1998, it is now clear that in the absence of a solution to the outstanding issues, UNHCR is not in a position to finalize such a document with the parties.

III. FINANCIAL ASPECTS

24. The General Assembly, by its resolution 53/18 B of 8 June 1999, appropriated the amount of $52.1 million, equivalent to a monthly rate of some $4.3 million, for the maintenance of MINURSO for the period from 1 July 1999 to 30 June 2000.

25. As indicated in my previous report (S/1999/1098, para. 24), I also obtained authorization from the Advisory Committee on Administrative and Budgetary Questions to enter into commitments in an amount of $5.1 million to incur additional expenditure associated with the simultaneous conduct of the identification and appeals process. Therefore, should the Security Council approve my recommendation contained in paragraph 30 below with regard to the extension of the mandate of MINURSO, the cost of maintaining the Mission will be within the monthly rate approved by the General Assembly and the commitment authority granted by the Advisory Committee.

26. As at 15 November 1999, unpaid assessed contributions to the MINURSO special account amounted to $70.0 million. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to $1,723.5 million.

IV. OBSERVATIONS AND RECOMMENDATIONS

27. I expect the identification of the remaining individual applicants from tribal groupings H41, H61 and J51/52 to continue satisfactorily and to be completed at the end of this month. This would permit the publication of the second part of the provisional voter list and the initiation of the appeals process for these tribal groupings by the middle of next month.

28. It appears from section II of the present report that MINURSO might be faced with a lengthy process if it were to consider the appeals of tens of thousands of applicants. Under the circumstances, the prospect of holding the referendum within a reasonable period of time, instead of becoming closer, has become even more distant. The problems posed by the current number of appeals and the opposing positions taken by the parties on the issue of admissibility seem to allow little possibility of holding the referendum before 2002 or even beyond.

29. In my previous report to the Security Council (S/1999/1098, para. 18), I indicated that the two parties had agreed in principle to the UNHCR draft plan for cross-border confidence-building measures. However, tangible progress has yet to be made in this regard. I therefore reiterate my previous appeal to the parties to cooperate with UNHCR and MINURSO for the initiation of these measures without further delay. In addition, consultations need to be resumed with all the parties to the UNHCR repatriation protocol as soon as possible, with a view to finalizing the document.

30. In the light of the foregoing, I recommend that the Security Council extend the mandate of MINURSO until 29 February 2000. This would allow time for the completion of identification, the issuance of the second provisional voter list

and the initiation of appeals from applicants of tribal groupings H41, H61 and J51/52, thus giving a clear picture of where we finally stand on the appeals issue. Meanwhile, I have instructed my Special Representative to continue his consultations with the parties, seeking a reconciliation of their widely divergent views regarding the appeals process, the repatriation of refugees and other crucial aspects of the United Nations Settlement Plan. In this regard, I should like to mention that difficulties may be encountered in reconciling the opposing views of the parties regarding the appeals process and the repatriation of Saharan refugees, and therefore the implementation within a reasonable period of the Settlement Plan itself.

Annex

United Nations Mission for the Referendum in Western Sahara

Contributions as at 2 December 1999

	Military observers	Troops	Civilian police observers	Total
Argentina	1	-	-	1
Austria	3	-	-	3
Bangladesh	6	-	-	6
Belgium	1	-	-	1
China	16	-	-	16
Egypt	19	-	1	20
El Salvador	2	-	-	2
France	25	-	-	25
Ghana	6	7	10	23
Greece	1	-	-	1
Guinea	3	-	-	3
Honduras	12	-	-	12
Hungary	-	-	3	3
Ireland	7	-	-	7
India	-	-	12	12
Italy	5	-	-	5
Kenya	8	-	-	8
Malaysia	13	-	10	23
Nigeria	5	-	10	15
Norway	-	-	2	2
Pakistan	6	-	9	15
Poland	3	-	-	3
Portugal	5	-	9	14
Republic of Korea	-	20	-	20
Russian Federation	25	-	-	25
Senegal	-	-	5	5

	Military observers	Troops	Civilian police observers	Total
Sweden	-	-	10	10
Uruguay	13	-	-	13
United States of America	15	-	-	15
Venezuela	3	-	-	3
Total	203	27	81	311

* The Force Commander.

Map No. 3691 Rev. 26 UNITED NATIONS
December 1999

Department of Public Information
Cartographic Section